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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 12-38 and 03-123; DA 12-208]

Consumer and Governmental Affairs Bureau Seeks to Refresh the Record Regarding Misuse of Internet Protocol Relay Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission, via the Consumer and Governmental Affairs Bureau (Bureau) seeks comment to refresh the record regarding misuse of Internet Protocol relay service. Further comments are requested to bring the record up to date on proposed additional rules that would have the intended effect of reducing or eliminating misuse of Internet Protocol Relay.

DATES: Submit comments on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by CG Docket Nos. 12-38 and 03-123, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's Web site <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Web site for submitting comments. For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal service mailing address, and **CG Docket Nos. 12-38 and 03-123**.
- **Paper filers:** Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, DC 20554.

In addition, parties must serve one copy of each pleading with the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, or via email to fcc@bcpiweb.com.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

FURTHER INFORMATION CONTACT: Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, at (202) 418-2235 (voice), (202) 418-2922 (TTY), or e-mail at Eliot.Greenwald@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice, document DA 12-208, released February 13, 2012. The full text of document DA 12-208 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document DA 12-208 and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission's

duplicating contractor at its web site www.bcpweb.com, or by calling 1-800-378-3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Document DA 12-208 can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro/trs.html>.

Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments on or before the date indicated in the **DATES** section of this document. Comments must include a short and concise summary of the substantive discussion and questions raised in the document DA 12-208. The Commission further directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments. Comments must otherwise comply with 47 CFR 1.48 and all other applicable sections of the Commission's rules.

- Pursuant to 47 CFR 1.1200 et. seq., this matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the

relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

INITIAL PAPERWORK REDUCTION ACT OF 1995 ANALYSIS

Document DA 12-208 does not contain any new proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Pub. L. 104-13. In addition, therefore, it does not contain any new proposed information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198, see 44 U.S.C. 3506(c)(4).

SYNOPSIS

In document DA 12-208, the Bureau seeks to refresh the record on several issues pertaining to misuse of Internet Protocol (IP) Relay Service, including issues that were initially raised in the Further Notice of Proposed Rulemaking (2006 FNPRM) released by the Commission on May 8, 2006 and published at 71 FR 31131, June 1, 2006. IP Relay is a form of text-based telecommunications relay service (TRS) that

uses the Internet to allow individuals with hearing and/or speech disabilities to communicate with other individuals. The Bureau remains concerned that individuals who do not have a hearing or speech disability may be continuing to misuse IP Relay by, for example, calling merchants to place orders using fake, stolen, or otherwise invalid credit cards. Such abuse not only drains the TRS Fund that supports these services, but also harms legitimate consumers whose calls are rejected by individuals and businesses that have been the victims of such misuse. The Bureau believes that a refreshed record will better enable the Commission to take timely and appropriate action to address these problems.

As the 2006 FNPRM explained, IP Relay affords users a degree of anonymity that can facilitate fraudulent activity. The 2006 FNPRM sought comment on ways to curb fraudulent calls via IP Relay, including requiring user registration and permitting relay providers to screen and terminate fraudulent IP Relay calls.

Since the 2006 FNPRM was adopted, the Commission has undertaken a number of measures to combat misuse of the IP Relay program. Most significantly, in June 2008, the Commission adopted a mandatory system in which users of iTRS, including IP Relay, are assigned ten-digit telephone numbers linked to the North American Numbering Plan and iTRS users with disabilities are registered with their provider of choice (default provider). The Commission expressed its expectation that the registration of iTRS users with a default provider and the requirement for each user to provide a “Registered Location” would reduce the misuse of IP Relay. See 73 FR 41286, July 18, 2008. The Commission also sought comment on whether additional steps were needed to curtail illegitimate calls made through this service. See 73 FR 41307, July 18, 2008.

In December 2008, the Commission adopted a second iTRS numbering Order, published at 73 FR 79683, December 30, 2008, addressing IP Relay and video relay service (VRS). Among other things, the Commission:

- Directed iTRS providers to “implement a reasonable means of verifying registration and eligibility information,” including the consumer’s name and mailing address, before issuing the consumer a ten-digit telephone number. The Commission provided the following examples of what such verification could include: “(1) sending a postcard to the mailing address provided by the consumer, for return to the default Internet-based TRS provider; (2) in-person or on-camera ID checks during registration; or (3) other verification processes similar to those performed by voice telephone providers and other institutions (such as banks and credit card companies).”
- Directed that such registration be accompanied by consumer education and outreach efforts designed to inform iTRS users of the importance of providing accurate registration information.
- Limited eligibility to receive ten-digit numbers for iTRS use to people who have a hearing or speech disability and directed provider verification procedures to include a self-certification component requiring consumers to verify that they have a medically recognized hearing or speech disability necessitating their use of TRS.

In April 2011, the Commission adopted several additional measures to combat relay fraud and abuse. See 76 FR 24393, May 2, 2011 and 76 FR 24437, May 2, 2011. Among those measures that apply to IP Relay were a requirement for all TRS providers to submit to Commission-directed audits, a mandate for iTRS providers to retain, for five years, call detail records and other records supporting claims for payment, whistleblower protection rules for provider employees and contractors, and a requirement that a senior executive of a TRS provider certify, under penalty of perjury, to the validity of minutes and data submitted to the TRS Fund administrator.

Lastly, in July 2011, the Commission adopted new certification rules applicable to iTRS providers, authorized on-site visits to the premises of applicants for iTRS certification and certified iTRS providers to confirm compliance with Commission rules, and set forth new requirements for providers to submit

documentary evidence of their ability to comply with the Commission's TRS rules, to provide annual updates to their certification application information, and to certify, under penalty of perjury, as to the accuracy of their certification applications and their annual compliance filings to the Commission. See 76 FR 47469, August 5, 2011 and 76 FR 47476, August 5, 2011.

Refreshing the Record. Title IV of the Americans with Disabilities Act (ADA) mandates the provision of TRS for individuals with hearing and speech disabilities that is functionally equivalent to voice telephone services. This functional equivalency standard has served as the touchstone for the Commission in determining how TRS providers must provide services to consumers: the goal is to have the features, functions, and capabilities of these services mirror voice telephone services as closely as possible. To this end, Commission rulings have characterized CAs as "transparent conduits" to a relay call, frequently equated the connection to a CA with accessing a dial tone, and mandated confidentiality protections. Calls that are not legitimate relay calls, however, are not entitled to these transparency and confidentiality protections. Moreover, when there is concern that fraud or misuse infects a relay service, the Commission has an obligation to consider actions necessary to preserve the integrity and sustainability of the service.

Despite the Commission's persistent efforts to combat the fraudulent use of IP Relay, the Bureau remains concerned that such misuse may persist. For example, although the Commission directed iTRS providers to implement reasonable methods to verify registration and eligibility information submitted by IP Relay users, the methods that providers currently are using may not be reasonable and may not be achieving the desired goal of ensuring that only eligible or qualified persons are using the service. Accordingly, the Commission may need to impose additional and more specific requirements with respect to both authenticating initial registrants and verifying users of the service in order to ensure that providers are in fact taking reasonable steps needed to curb IP Relay misuse. Such steps are necessary to protect the

integrity of the IP Relay program so that this service remains a viable and a valuable communication tool for Americans who wish to use it. Therefore, the Bureau believes it is necessary to refresh the record in this proceeding to help the Commission better understand what additional tools are needed to aid the Commission in these efforts.

To this end, the Bureau seeks additional comment to refresh the 2006 FNPRM record and regarding IP Relay generally on the following matters:

- The effectiveness of current measures to verify eligibility information for registration. In this regard, the Bureau asks commenters to provide information about methods of verification currently in use to authenticate the identity and eligibility of an individual seeking to obtain a ten-digit number. The Bureau specifically seeks comment on the extent to which IP Relay providers are utilizing one or more of the following verification procedures when registering such individuals: (1) sending a postcard to the mailing address provided by the consumer, for return to the default IP Relay provider; (2) utilizing in-person or on-camera ID checks during registration; (3) utilizing verification processes similar to those performed by voice telephone providers and other institutions (such as banks and credit card companies); or (4) utilizing an alternative means of verification approved in advance by the Commission. The Bureau asks providers to comment on the effectiveness of each of these or any other verification measures that they use to screen out illegitimate IP Relay users, as well as how they assess the effectiveness of such measures. The Bureau further asks whether individuals outside of the U.S. have been obtaining IP Relay access numbers or otherwise using this service unlawfully, as well as to what extent current provider practices enable or contribute to the registration of ineligible IP Relay users. The Bureau also seeks input on what additional steps should be taken, or technology implemented, to prevent the registration and use of IP Relay by these and other ineligible individuals?

- Other verification processes, such as commercial verification services, that are available and may be appropriate to more effectively screen out ineligible individuals who attempt to register as IP Relay users. For example, the Bureau notes that the Commission has in place verification procedures for other programs, such as those recently adopted for Lifeline assistance. Specifically, in light of evidence demonstrating that consumer self-certification of program-based eligibility does not effectively prevent ineligible consumers from enrolling in Lifeline, the Commission amended its rules to require providers to confirm a consumer's eligibility for Lifeline with documentation. Would utilization of similar or analogous procedures be appropriate and necessary to verify eligibility in the IP Relay context? The Bureau seeks specific comment on whether a database would be effective in this context, and on what types of documentation would be available and appropriate to establish the eligibility of registrants for IP Relay. Are there other governmental programs that may serve as a model for verifying the eligibility of individuals who seek to use IP Relay?
- Although the iTRS Numbering Implementation Public Notice directed providers to verify each caller's registration prior to completing non-emergency calls, it also directed providers to handle a call from a newly registered user immediately, even if the provider had not completed the process of verifying the caller's information, assigning the caller a new ten-digit number, and provisioning that number to the iTRS database. Should the Commission continue to permit temporary authorization for a user to place IP Relay calls while verification of the caller is taking place, in light of the apparent misuse of IP Relay? Or should the Commission prohibit temporary authorization for this service (other than for the handling of emergency calls)?
- To the extent the Commission adopts specific user verification procedures, should it require IP Relay providers to revalidate all of their currently registered users?

- Whether IP Relay providers and their CAs should be given the discretion to determine, on a case-by-case basis, that a call is not a legitimate TRS call, and to block, terminate, or refuse to handle the non-TRS call. Are there ways for an IP Relay provider and its CAs to determine when an IP Relay call is fraudulent through identifiable indicia? If an illegitimate call (i.e., one that the CA has determined is not a TRS call) has been placed to a merchant, should the provider or CA be permitted to alert the merchant that the call is believed to be fraudulent, or take other steps to prevent the misuse of IP Relay?
- Whether advanced call tracking mechanisms – e.g., geolocation systems – are available for the purpose of accurately determining whether a particular IP Relay call is originating from or terminating to an international location. If available, can such call-tracking mechanisms identify international IP Relay calls, even when a party to the IP Relay call is attempting to disguise the IP Relay call as a domestic U.S. call by, for example, re-directing the call through a domestic IP address? The Bureau also seeks comment on the extent to which providers are using tracking mechanisms to determine where IP Relay calls originate.
- At present, Commission rules require providers to maintain and submit various records of the relay calls for which they seek reimbursement. However, the Commission's rules also prohibit CAs from keeping records of the content of any conversation beyond the duration of a call. For calls placed with IP Relay providers that are determined by a provider to be illegitimate, what documentation, if any, should the provider be required to maintain and submit to the Commission regarding such calls to facilitate better program oversight?
- Whether more rigorous user authentication on a per-call basis should be employed to combat misuse of IP Relay. If so, what form would this take? Would such an approach enable providers to authenticate callers who dial-around to a different IP Relay provider more effectively? Would the use of a common resource, such as a third-party database or service, enable providers to authenticate dial-around

callers more effectively? Would more rigorous user authentication on a per-call basis address current vulnerabilities to IP address spoofing? How could such an approach be extended to popular messaging services, such as AIM and Google Talk, that callers might use to access IP Relay?

- Under the Commission's iTRS registration process, IP Relay users select a default relay provider for the handling of their IP Relay calls, but are permitted to dial-around to a different IP Relay provider at any time. To what extent is this dial-around feature used or desirable for IP Relay calls? Under the Commission's rules, IP Relay providers must answer 85 percent of all calls within 10 seconds, averaged daily. Does this rapid response time negate the need for a dial-around feature? To what extent is the dial-around feature contributing to relay misuse? If the Commission discontinues allowing the dial-around feature, should an exception be made for emergency calls?
- Whether providers maintain lists of illegitimate users whose numbers are blocked from using IP relay, and, if so, the approximate number of such users and the extent to which providers share this information with one another. Should the Commission require providers to share such information or to take additional measures to ensure that all providers have the same information, e.g., by creating a central database of barred users and/or blocked numbers/addresses?
- The extent to which IP Relay fraud or misuse exists, and specifically, the extent to which it has worsened (or has been ameliorated) since the Commission adopted its iTRS numbering and user registration requirements. The Bureau also seeks updated information on any patterns associated with such misuse – for example, whether it is more prevalent at specific times of the day, week, month, and year – as well as the nature of this misuse.
- Whether specific audit procedures, in addition to those that the Commission has already authorized, are needed to identify and curb IP Relay misuse.

- The extent to which IP Relay is currently being used by consumers with and without disabilities, and whether it is meeting a need that is not fulfilled by other forms of relay, or other text-based services. When IP Relay was approved in 2002, IP-based captioned telephone relay service was not available to consumers and VRS was typically available in community settings only (e.g., libraries, consumer organizations). In addition, purely text-based services such as on-line ordering and text messaging were not as commonly used as they are today. To what extent do other forms of relay services, as well as text messaging and other electronic messaging services, now serve as adequate or preferred alternatives to IP Relay?

FEDERAL COMMUNICATIONS COMMISSION

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